IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

WEDNESDAY, THE 1ST AUGUST 2007 / 10TH SRAVANA 1929

WP(C).No. 21132 of 2005(N)

PETITIONER:

E.P. FRANCIS, AGED 61 YEARS,(EXPIRED)
S/O. LATE PYLOTH, RETIRED REVENUE OFFICER
ALUVA MUNICIPALITY, RESIDING AT ERINKARAN HOUSE,
KARUKUTTY P.O., PIN-683 576.

***ADDL.P2 IS IMPLEADED:**

P2. SMT. LAILA FRANCIS (PROSPECTIVE PETITIONER),
AGED 51 YEARS, W/O.LATE E.P.FRANCIS (1ST PETITIONER),
RESIDING AT ERINKARAN HOUSE, KARUKUTTY P.O.,
PIN – 683 576.

(*ADDL.PS IS IMPLEADED AS PER ORDER DTD. 28/02/2007
IN I.A.NO.1292/07)

BY ADV. SRI.P.C.SEBASTIAN
SRI.MARTIN G.THOTTAN

RESPONDENTS:

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1. THE DIRECTOR URBAN AFFAIRS
PUBLIC OFFICE BUILDING, TRIVANDRUM,
MUSUEM P.O., THIRUVANANTHAPURAM.

2. THE SECRETARY, MUNICIPAL COUNCIL
ALUVA.

3. THE STATE OF KERALA, REPRESENTED BY
ITS SECRETARY, DEPARTMENT OF LOCAL ADMINISTRATOR
SECRETARIAT, THIRUVANANTHAPURAM.

BY ADV. SRI.V.M.KURIAN for R2
SRI.A.V.THOMAS
SRI.MATHEW B. KURIAN
SRI.K.T.THOMAS
BY GOVERNMENT PLEADER SRI. BIJOY CHANDRAN for R1 & R3

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 01/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.NO.21132/2005 N

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE RELEVANT PAGE OF PETITIONER'S SERVICE BOOK SHOWING HIS PAY AS ON 29/07/98.

EXT.P2: COPY OF THE RELEVANT PAGE OF PETITIONER'S SERVICE BOOK SHOWING VERIFICATION ENDORSEMENT OF HIS SERVICE UPTO 21/11/98 BY MUNICIPAL SECRETARY, PATHANAMTHITTA.

EXT.P3: COPY OF THE RELEVANT PAGAE OF PETITIONER'S SERVICE BOOK SHOWING THE DETAILS OF PAY FIXATION AS LAST PAY AS ON 26/03/1999.

EXT.P4; COPY OF ORDER NO.E.725/2000 DTD. 26/05/2000 ISSUED BY THE MUNICIPAL SECRETARY, TRIPUNITHURA.

EXT.P5: COPY OF THE APPEAL DTD. 24/06/2000 SUBMITTED BY PETITIONER TO THE 1ST RESPONDENT.

EXT.P6: COPY OF THE ORDER NO.P-8 24140/2000 DTD. 14/02/2001 ISSUED BY THE 1ST RESPONDENT SANCTIONING PROVISIONAL PENSION.

EXT.P7: COPY OF LETTER NO.123328/PW.C.A2/2004/FINANCE DTD. 18/02/2005 ISSUED BY PRINCIPAL FINANCE SECRETARY TO THE 2ND RESPONDENT.

EXT.P8; COPY OF ORDER NO.P8-24140/2000 DTD. 27/04/05 ISSUED BY THE 1ST RESPONDENT SANCTIONING PENSION/FAMILY PENSION TO THE PETITIONER.

EXT.P9: COPY OF ORDER NO.P8/24140/2000 DTD. 31/05/05 ISSUED BY 1ST RESPONDENT SANCTIONING DCRG TO THE PETITIONER.

EXT.P10: COPY OF THE DEATH CERTIFICATE NO.03 AA 591718 DTD. 4/10/2006 ISSUED BY THE REGISTRAR OF BIRTH AND DEATHS, THRISSUR CORPORATION.

2ND RESPONDENT'S EXHIBIT:

EXT.R2(A): COPY OF THE ORDER DTD. 22/07/2005 ISSUED BY THE SECRETARY, ALUVA MUNICIPALITY.

/TRUE COPY/

P.S.TO JUDGE

KSS

ANTONY DOMINIC, J.
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W.P.(C) NO.21132 OF 2005
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Dated this the 1st day of August, 2007

J U D G M E N T

The petitioner was a Revenue Officer working in the Aluva Municipality and retired on superannuation w.e.f. 30/6/99. He is challenging Ext.P9 order dated 31/5/05 issued by the first respondent fixing his liability to the extent of Rs.98,382 . The ground on which it is challenged is that, the liability has been fixed in violation of Note 3 under Rule 3 Part III of KSR, in as much as it is beyond the three year period prescribed therein. This contention is unassailable and on that ground petitioner is entitled to succeed. Ext.P9 will stand quashed, but however without prejudice to the right of the respondents to recover the said amount by other means as is permissible under law.

Writ petition is disposed of as above.

ANTONY DOMINIC, JUDGE.

Rp